

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

HOLLIS LOCKETT,	:	
	:	
Petitioner	:	
	:	
VS.	:	
	:	NO. 5:92-CR-48 (WDO)
UNITED STATES OF AMERICA,	:	
	:	
Respondent	:	<u>ORDER</u>

Before the Court is petitioner **HOLLIS LOCKETT'S** motion for a certificate of appealability ("COA") (Tab # 186-1) from the Court's March 13, 2007 order (Tab # 182) accepting the recommendation of United States Magistrate Judge Mallon G. Faircloth (Tab # 179) that Lockett's Fed.R.Civ.P. 60(b) motion be denied. Petitioner's Rule 60(b) motion sought relief from his criminal judgment and sentence issued on August 24, 1993.

The Eleventh Circuit Court of Appeals has held that a petitioner is required to obtain a COA to appeal the denial of a Rule 60(b) motion. *Gonzalez v. Secretary of Dep't of Corrections*, 317 F.3d 1308, 1312 (11th Cir. 2004). Under 28 U.S.C. § 2253(c), a COA may issue only if the applicant has made a substantial showing of the denial of a constitutional right. For the reasons stated in United States Magistrate Judge Faircloth's recommendation and this Court's order accepting the same, the Court finds that petitioner has not made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). Accordingly, the application for a COA is **DENIED**.

Also before the Court is petitioner's motion for leave to proceed *in forma pauperis* on appeal (Tab # 194). Said motion is **DENIED AS MOOT**.

SO ORDERED, this 18th day of April, 2007.

S/
WILBUR D. OWENS, JR.
UNITED STATES DISTRICT JUDGE

cr